

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

PATTY ANNE CHERRY

PLAINTIFF

v.

Civil No. 6:16-cv-06067

COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION

DEFENDANT

MEMORANDUM OPINION

On March 17, 2017, Patty Anne Cherry (“Plaintiff”) filed this Motion For Nonsuit. ECF No. 23. According to Plaintiff, she longer wishes to pursue his appeal, and requests dismissal. *Id.* Defendant responded and although they have no objection to the dismissal, they request the dismissal be *with* prejudice based on the number of extensions Plaintiff requested to file her brief. ECF No. 24.

The parties have consented to the jurisdiction of a magistrate judge to conduct any and all proceedings in this case, including conducting the trial, ordering the entry of a final judgment, and conducting all post-judgment proceedings. ECF No. 10. Pursuant to this authority, the Court issues this memorandum opinion and orders the entry of a final judgment in this matter.

Absent any pending counterclaims, a court is authorized to dismiss a case at the Plaintiff’s request on the terms that the court considers proper. FED. R. CIV. P. 41(a)(2). Defendant has asserted no counterclaims and has not objected to this motion, other than to request the dismissal be with prejudice. Defendant’s request that the dismissal be with prejudice is based on the fact the Plaintiff received numerous extensions in which to file her appeal brief. However, it should be noted Defendant had no objection to the requests for extensions sought by Plaintiff.

After taking into consideration said Motion, the Court finds the Plaintiff’s motion (ECF No. 23) should be **GRANTED** and Plaintiff’s case be dismissed without prejudice.

ENTERED this 24th day of March, 2017.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE